

UTILITIES DIVISION[199]

Notice of Intended Action

Proposing rule making related to approval of utility system appraisers and providing an opportunity for public comment

The Utilities Board hereby proposes to amend Chapter 32, “Reorganization,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 476.2.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 388.2A.

Purpose and Summary

The General Assembly enacted a new statutory provision (Iowa Code section 388.2A(2)“a”(1)) that requires a city proposing to sell a city utility to obtain two appraisals, one of which must be obtained from an appraiser approved by the Utilities Board. The proposed rule establishes procedures for a governing body of a city utility to request approval of an appraiser from the Utilities Board.

The Board issued an order commencing rule making on February 11, 2019. The order is available on the Board’s electronic filing system, efs.iowa.gov, under Docket No. RMU-2018-0032.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to rule 199—1.3(17A,474,476).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Board no later than 4:30 p.m. on March 19, 2019. Comments should be directed to:

Iowa Utilities Board
Electronic Filing System (EFS) at efs.iowa.gov
Phone: 515.725.7337
Email: efshelpdesk@iub.iowa.gov

Public Hearing

An oral presentation at which persons may present their views orally or in writing will be held as follows:

April 2, 2019
8:30 to 10:30 a.m.

Board Hearing Room
1375 East Court Avenue
Des Moines, Iowa

Persons who wish to make oral comments at the oral presentation may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the oral presentation and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Adopt the following **new** rule 199—32.10(388):

199—32.10(388) Approval of appraiser for municipal utilities. Pursuant to Iowa Code section 388.2A(2) “a”(1), in order to dispose of a city utility by sale, the governing body of a city utility shall determine the fair market value of the utility system that is being considered for sale after obtaining two appraisals from independent appraisers, one of which is to be obtained from an independent appraiser approved by the board. The appraisals must be conducted in conformance with the uniform standards of professional appraisal practice or substantially similar standards. The procedures for requesting board approval of an appraiser are as follows:

32.10(1) Making a request. To request board approval of an appraiser to appraise a city utility, the governing body of the city utility shall file a request in the board's electronic filing system. The request shall contain the following information:

- a. The name of the city and legal name of the utility;
- b. The type of utility service provided by the utility;
- c. The total number of customers served by the utility and the number of customers served by class, if applicable;
- d. A description of the assets owned by the utility, including any equipment, buildings, or other facilities used in providing the utility service; and
- e. The name and contact information for the city or utility.

32.10(2) Consideration of request. When a request for approval of an appraiser is received by the board, board staff shall review the request and provide the board with a recommendation or a list of appraisers for the board to consider approving. The board may delegate approval authority to the board chair.

32.10(3) Notice of approved appraiser. After review of the staff recommendation, the board shall notify the city and governing body of the city utility of an approved appraiser. If the city and governing body of the city utility are unable to agree to terms with an approved appraiser, the city and governing body of the city utility may file a letter with the board requesting approval of another appraiser. In support of the request for another appraiser, the city and governing body of the city utility shall identify the reasons why they are requesting the board to approve another appraiser.

This rule is intended to implement Iowa Code section 388.2A(2) “a”(1).